



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 19, 1982

Circular No. A-125

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Prompt Payment

1. Purpose. This Circular prescribes policies and procedures to be followed by executive departments and agencies in paying for property and services acquired under Federal contract.
2. Background. The Prompt Payment Act (P.L. 97-177) requires Federal agencies to pay their bills on time, to pay interest penalties when payments are made late, and to take discounts only when payments are made within the discount period. Section 2(a)(1) of the Act requires the Director of the Office of Management and Budget to issue implementing regulations. Implementation will result in timely payment, better business relationships with suppliers, improved competition for Government business, and reduced costs to the Government for goods and services. Implementation must be consistent with sound cash management practices and related Treasury regulations.
3. Policy. Agencies will make payments as close as possible to, but not later than, the due date, or if appropriate, the discount date. Payment will be based on receipt of proper invoices and satisfactory performance of contract terms. Agencies will take discounts only when payments are made within the discount period. When agencies take discounts after expiration of the discount period or fail to make timely payment, interest penalties will be paid. Agencies will pay interest penalties without the need for business concerns requesting them, and will absorb interest penalty payments within funds available for the administration or operation of the program for which the penalty was incurred.
4. Definitions. For the purposes of this Circular, the following definitions apply:

a. Agency -- has the same meaning as the term "agency" in Section 551(1) of Title 5, United States Code, and also includes any entity (1) that is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (2) that is so identified for this purpose by the head of such agency. The term agency includes military post and base exchanges and commissaries, but does not

10
REFERENCE

include the Tennessee Valley Authority, which is exempted from coverage by this Circular under the provisions of the Prompt Payment Act.

b. Applicable interest rate -- the interest rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the Federal Register. This rate is referred to as the "Renegotiation Board Interest Rate," and is published semiannually on or about January 1 and July 1.

c. Business concern -- any person or organization engaged in a profession, trade, or business; and not-for-profit entities (including State and local governments, but excluding Federal entities) operating as contractors.

d. Contract -- any enforceable agreement, including rental and lease agreements and purchase orders, between an agency and a business concern for the acquisition of property or services.

e. Designated payment office -- the place named in the contract for forwarding of invoices for payment, or in certain instances, for approval.

f. Due date -- the date on which Federal payment should be made. Determination of such dates is discussed in Section 7 of this Circular.

g. Discount date -- the date by which, if payment is made, a specified discount can be taken.

h. Payment date -- the date on which a check for payment is dated or a wire transfer is made.

i. Proper invoice -- a bill or written request for payment provided by a business concern for property or services rendered. A proper invoice must meet the requirements of Section 6.b. of this Circular.

j. Receipt of invoice -- the later of:

-- The date a proper invoice is actually received in the designated payment office, or

-- The date on which the agency accepts the property or service.

k. Receiving report -- written evidence of acceptance of property or services by a Government official. Receiving reports must meet the requirements of Section 6.c. of this Circular.

5. Responsibilities. Each agency head is responsible for assuring timely payments and the payment of interest penalties where required. Each agency head will issue internal instructions, as necessary, to implement this Circular by October 1, 1982. Such instructions will include provisions for determining the causes of any interest penalties incurred, and for taking necessary corrective or disciplinary action. Inspectors General and internal auditors will make reviews of implementation, as they and the agency head deem appropriate.

6. Payment Standards. Payments will be made as close as possible to, but not later than, the due date, consistent with Treasury regulations (I Treasury Fiscal Requirements Manual 6-8040.20). To establish adequate documentation to support payment of interest penalties, the following information must be included in contracts, invoices, and receiving reports.

a. A contract must include the following payment provisions:

-- Payment due date(s).

-- Separate payment dates if partial payment is provided for partial executions or deliveries.

-- If applicable, a statement that the special payment provisions of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) or the Perishable Agriculture Commodities Act of 1930 (7 U.S.C. 499a(4)) applies.

-- A stated inspection period following delivery, where necessary, for Federal acceptance of property or services.

-- Name where practicable, title, phone number, and complete mailing address of officials of the business concern, and of the designated payment office.

b. A proper invoice must include:

-- Name of the business concern and invoice date.

-- Contract number, or other authorization for delivery of property or services.

-- Description, price, and quantity of property and services actually delivered or rendered.

-- Shipping and payment terms.

-- Other substantiating documentation or information as required by the contract.

the day after the due date through the payment date and the amount will be separately stated on the check or accompanying remittance advice. Adjustments will be made for errors in calculating interest, if requested. When an interest penalty that is owed is not paid, interest will accrue on the unpaid amount until paid. Interest penalties remaining unpaid for any 30-day period will be added to the principal, and interest penalties, thereafter, will accrue monthly on the total of principal and previously accrued interest.

-- When an agency takes a discount after the discount period has expired, the interest payment will be calculated on the amount of the discount taken, for the period beginning the day after the end of the specified discount period through the payment date.

-- When an agency fails to make notification of an improper invoice within 15 days (3 days for meat or meat food products, and 5 days for perishable agricultural commodities), the number of days allowed for payment of the corrected, proper invoice will be reduced by the number of days between the fifteenth day and the day notification was transmitted to the business concern. Calculation of interest penalties, if any, will be based on an adjusted due date reflecting the reduced number of days allowable for payment.

Interest penalties under the Prompt Payment Act will not continue to accrue (1) after the filing of a claim for such penalties under the Contract Disputes Act of 1978, or (2) for more than one year. Interest penalties of less than one dollar need not be paid.

D. Grant Recipients. Recipients of Federal assistance may pay interest penalties if so specified in their contracts with business concerns. However, obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalties be used to meet matching requirements of federally-assisted programs.

E. Reporting. Each Federal agency will report to the Director of OMB within 60 days after the end of each fiscal year, beginning with Fiscal Year 1983, the following information:

- Number of interest penalties paid.
- Amount of interest penalties paid.
- Relative frequency, on a percentage basis, of interest penalty payments to the total number of payments.
- Number, total amount, and relative frequency, on a percentage basis, of payments made 5 days or more before the due date, except where cash discounts were taken.

-- Name where practicable, title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

Notice of an apparent error, defect, or impropriety in an invoice will be given to a business concern within 15 days of receipt of an invoice (3 days for meat or meat food products and 5 days for perishable agricultural commodities) and suitably documented. ||

c. A receiving report must include:

-- Contract or other authorization number.

-- Product or service description.

-- Quantities received, if applicable.

-- Date(s) property or services accepted.

-- Signature, printed name, title, phone number, and mailing address of the receiving official.

Agencies will ensure that receipt and acceptance are executed as promptly as possible. Receiving reports will be forwarded in time to be received by the designated payment office by the fifth business day after acceptance, unless other arrangements are made. Designated payment offices will stamp receiving reports and invoices with the date received in that office. ||

d. Checks will be mailed or transmitted on or about the same day for which the check is dated. ||

7. Determining Due Dates. Payment will be made as close as possible to, but not later than, the thirtieth day after receipt of a proper invoice as defined in Section 4.i. of this Circular, except as follows:

-- When a specific payment date is provided for in the contract, payment will be made as close as possible to, but not later than, that date.

-- When a time discount is taken, payment will be made as close as possible to, but not later than, the discount date. Discounts will be taken whenever economically justified. (See Treasury Fiscal Requirements Manual 6-8040.30.)

-- Payment for meat or meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), will be made as close as possible to, but not later than, the seventh day after the date of delivery.

-- Payment for perishable agriculture commodities, as defined in Section 1(4) of the Perishable Agriculture Commodities Act of 1930 (7 U.S.C. 499a(4)), will be made as close as possible to, but not later than, the tenth day after the date of delivery, unless another date is specified in the contract.

8. Interest Penalty Requirement.

a. An interest penalty will be paid automatically when all of the following conditions are met:

-- There is a contract or purchase order with a business concern.

-- Federal acceptance of property or services has occurred and there is no disagreement over quantity, quality, or other contract provisions.

-- A proper invoice has been received (except where no invoice is required, e.g., some periodic lease payments) or the agency fails to give notice that the invoice is not proper within 15 days of receipt of an invoice (3 days for meat or meat food products, and 5 days for perishable agricultural commodities).

-- Payment is made to the business concern more than 15 days after the due date (3 days for meat or meat food products, and 5 days for perishable agricultural commodities).

b. An interest penalty will also be paid when an agency takes a discount after the discount period has expired, and fails to correct the underpayment within 15 days of the expiration of the discount period (3 days for meat and meat food products, and 5 days for perishable agricultural commodities).

c. Interest penalties are not required when payment is delayed because of a disagreement between a Federal agency and a business concern over the amount of the payment or other issues concerning compliance with the terms of a contract; nor are they required when payments are made solely for financing purposes, payments are made in advance, or for a period when amounts are withheld temporarily in accordance with the contract. Claims concerning disputes, and any interest that may be payable with respect to the period while the dispute is being settled, will be resolved in accordance with the provisions in the Contract Disputes Act of 1978 (41 U.S.C. 601 et. seq.).

9. Calculation of Interest Penalties. Whenever a proper invoice (or periodic payment where no invoice is required) is paid after the due date plus 15 days (except 3 days for meat and meat food products, and 5 days for perishable agricultural commodities), interest will be included with the payment at the interest rate applicable on the payment date. Interest will be computed from

-- Reasons that interest penalties were incurred.

-- An analysis of the progress made from previous years in improving the timeliness of payments.

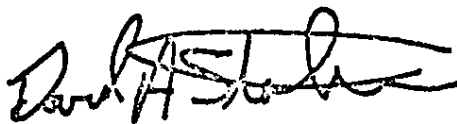
In order to minimize the cost of reporting, statistical sampling may be used to derive the information above.

12. Additional Provisions. Additional procurement guidelines and requirements are set forth in applicable acquisition regulations.

13. Effective Date. This Circular is effective on publication. Interest penalties will apply to payments made under contracts issued on or after October 1, 1982.

14. Inquiries. Questions or inquiries may be directed to the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503, telephone number 202/395-4773. Inquiries concerning the applicable interest rate may be directed to the Appropriation and Investment Branch, Department of the Treasury, telephone number 202/566-5651.

15. Sunset Review Date. This Circular will have an independent policy review to ascertain its effectiveness three years from the date of issue.



David A. Stockman
Director